

REMARKS

STATUS OF APPLICATION

Claims 1-18 will be pending after entry of the amendments set forth herein.

Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Edwards et al. (US 2002/0156795).

DISCUSSION OF AMENDMENTS TO CLAIMS

Independent system claims 1 and 5, and independent method claim 10, have been amended to recite further aspects of the invention as disclosed in the specification, for instance at page 1, line 22-26; page 1, line 28 through page 2, line 3, and page 2, lines 16-30. No new matter has been added.

RESPONSE TO REJECTION

Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are grouped into three families: (i) system claims 1-4, (ii) system claims 5-9, and (iii) method claims 10-18. Given that the different statutory categories of subject matter may be analyzed differently for statutory subject matter, claims 1-9 will be discussed separately from claims 10-18.

1. System claims 1-9

As to independent system claims 1 and 5, the rejection is respectfully traversed.

In the comments in support of the rejection, it is stated that, to be patentable subject

matter, the claimed system must "recite a practical application" which may be "provided by a physical transformation or a useful, concrete and tangible result." It is submitted that independent system claims 1 and 5 provide such recitations.

Claims 1 and 5 recite, in connection with distributed networks including a node with a processing device, handling data objects in different type representations. Given that such networks and nodes are commonly used in distributed data processing systems and the like, it is widely regarded that such systems serve a "practical application", and that handling data objects do indeed provide a "useful, concrete and tangible result." The claims recite subject matter which facilitates such systems and such handling of data objects, so it is submitted that their recited subject matter meets this requirement

The rejection includes a statement that

.... the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having a real world value. More specifically, the claimed subject matter is software and not tangible.

Applicants' attorney respectfully submits that the claimed invention is more than just "software and not tangible." Rather, the handling of data objects, the different type representations and the "transformation," as recited in claim 1 and in claim 5, do indeed have real world value. Therefore, claims 1 and 5, and their dependent progeny, are believed to recite statutory subject matter.

Please note, also, that claims 1 and 5 have been amended to add limitations similar to those of independent method claim 10, discussed below. It is submitted that, for this additional reason, claims 1 and 5 and their respective dependent progeny are believed to be patentable subject matter under section 101.

2. Method claims 10-18

The law of method claims under 35 U.S.C. 101 has evolved, in In re Bilski 2007-1130 (Serial No. 08/833,892) (Fec. Cir. 2008). In Chief Judge Michel's opinion, at pages 18-20, section III. of the opinion reviews standards for the patent eligibility of process or method claims. On page 20, lines 17-19, the opinion states:

Therefore, we conclude that the "useful, concrete and tangible result" inquiry is inadequate and reaffirm that the machine-or-transformation test outlined by the Supreme Court is the proper test to apply.

The opinion cites *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972) as the source of the test, which says that a process claim satisfies section 101 either by showing that the claim is tied to a particular machine, or that the claimed process transforms an article.

To conform with the first of these two ways for satisfying section 101, independent method claim 10 has been amended to recite the elements of the communication network and the node, which includes a computing device and program code instructions for performing the method.

It is respectfully submitted that the additional limitations to method claim 10 tie the claimed subject matter to a "particular machine" within the meaning of the machine-or-transformation test, so as to make claim 10 and its dependent progeny satisfy the test. Accordingly, it is respectfully requested that the rejection be reconsidered and withdrawn.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Edwards et al. (US 2002/0156795).

Independent claims 1, 5, and 10 have been amended to additionally recite language as follows (emphasis added):

wherein each of the first data type representation and the second data type representation include (i) a specification of a data item within a data object of the respective data type representation, and (ii) operations which the data object can perform; and

wherein the specification of the data item is one of (i) a native data type, and (ii) a generic container data type which may represent multiple logical data types and cannot be typed at compile time...

The comments in support of the rejection allege that Edwards teaches subject matter, for instance in paragraphs [0002], [0006], [0022] and the Abstract, relating to

a first data type representation, wherein data fields in the data object are mapped into the first data type representation (0006]]; [0022]) ; a second data type representation; and means for transforming the first data type representation into the second data type representation (Abstract)

More specifically, Edwards teaches, in paragraph [0022], lines 3-7, that "a predetermined set of protocols has been required to be specified to enable arbitrary components in the environment to communicate with each other, assuming the components were transmitting or receiving data,..." (Emphasis added.)

Edwards goes on to teach, in paragraph [0022], lines 10-14, that "[t]he present invention allows components 2024 using the same or different transfer mediums and/or communication protocols to communicate without having a priori knowledge of each other."

Therefore, Edwards is limited to a teaching of communication protocols for communication between different components. There is no indication of a distinction between compile time, run time, or the like. That is, Edwards does not teach or suggest the limitations regarding data types, nor does it teach or suggest any inability to type at compile time, such as that which is in the claim language quoted above.

By contrast, the present independent claims 1, 5, and 10 do recite the limitations quoted above. Accordingly, a person of ordinary skill in the art would not have found the claimed invention to be obvious over Edwards. Rather, the claimed invention is patentably distinct over Edwards. Accordingly, it is respectfully requested that the rejection be reconsidered and withdrawn.

CONCLUSION AND PRAYER FOR RELIEF

In light of the foregoing, it is submitted that the remaining claims are in condition for allowance. It is respectfully requested that the claims be allowed.

The Examiner is invited to contact the undersigned attorney by telephone, between 8:30 and 5:00 Pacific time, if it is believed that such a telephone interview will expedite prosecution of the application.

Respectfully submitted,

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